

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

POZEN INC.		
Plaintiff,		
v.	CIVIL ACTION NO. 6:08-cv-437-LED	
PAR PHARMACEUTICAL, INC.		
Defendant.	PATENT CASE	
POZEN INC.		
Plaintiff,		
v.	CIVIL ACTION NO. 6:09-cv-003-LED CONSOLIDATED WITH CIVIL ACTION NO. 6:08-cv-437-LED AND CIVIL ACTION NO. 6:09-cv-182-LED	
ALPHAPHARM PTY LTD.		
Defendant.	PATENT CASE	
POZEN INC.		
Plaintiff,		
v.	CIVIL ACTION NO. 6:09-cv-182-LED CONSOLIDATED WITH CIVIL ACTION NO. 6:08-cv-437-LED AND CIVIL ACTION NO. 6:09-cv-003-LED	
TEVA PHARMACEUTICALS USA, INC.		
Defendant.	PATENT CASE	

**POZEN INC.'S UNOPPOSED MOTION  
FOR LEAVE TO AMEND ITS ORIGINAL COMPLAINT**

Plaintiff Pozen Inc. (“Pozen”), unopposed by defendants Par Pharmaceutical, Inc. (“Par”), Alphapharm Pty Ltd. (“Alphapharm”) and Teva Pharmaceuticals USA, Inc. (“Teva”), hereby moves the Court pursuant to Federal Rule of Civil Procedure 15 for an Order granting

Pozen leave to amend its Original Complaint.<sup>1</sup> The Amended Complaint was filed on August 21, 2009 [Docket 92]. Specifically, Pozen seeks to add Dr. Reddy's Laboratories, Inc. ("Dr. Reddy's") as a fourth defendant.<sup>2</sup> Pozen contends that Dr. Reddy's infringes all three of the patents currently asserted in this lawsuit.

Subsequent to filing the Amended Complaint, Pozen's counsel has conferred with counsel for Par, Alphapharm and Teva regarding this motion, and counsel for Par, Alphapharm and Teva have consented in writing, in accordance with Federal Rule of Civil Procedure 15(a)(2), to the filing of Pozen's Amended Complaint.

### **CONCLUSION**

For the foregoing reasons, Pozen, unopposed by Par, Alphapharm and Teva, respectfully requests that this Court grant Pozen leave to amend its Original Complaint.

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<sup>1</sup> Rule 15(a)(2) provides that, after a responsive pleading is served, as is the case here, "a party may amend its pleading only with the opposing party's written consent or the court's leave." FED. R. CIV. P. 15(a)(2). Moreover, this rule states that "[t]he court should freely give leave when justice so requires." *Id.*

<sup>2</sup> Pozen did not bring suit against Dr. Reddy's until this time because it did not receive notice of Dr. Reddy's petition to the FDA to market a generic version of Treximet™ before the expiration of United States Patent Nos. 6,060,499, 6,586,458 and 7,332,183, the patents-in-suit, until August 3, 2009.

Dated: September 1, 2009

Respectfully submitted,

/s/ Collin Maloney

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*Counsel for Plaintiff Pozen Inc.*

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that counsel for Plaintiff has conferred with opposing counsel regarding the filing of this motion and there is no opposition to the relief requested herein.

/s/ Collin Maloney

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email and/or fax, on this the 1<sup>st</sup> day of September, 2009.

/s/ Collin Maloney

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TEVA PHARMACEUTICALS USA, INC.		
Defendant.	PATENT CASE	

**ORDER GRANTING POZEN INC.'S UNOPPOSED MOTION  
FOR LEAVE TO AMEND ITS ORIGINAL COMPLAINT**

THE COURT, having considered Plaintiff Pozen Inc.'s Unopposed Motion for Leave to Amend its Original Complaint, and finding no objection to it and good cause for it, hereby grants the Unopposed Motion.

IT IS THEREFORE ORDERED that Pozen is granted leave to amend its Original

Complaint. The Amended Complaint filed by Pozen on August 21, 2009 [Docket 92] is thereby approved.